



# House of Representatives

## File No. 639

General Assembly

February Session, 2012

(Reprint of File No. 549)

Substitute House Bill No. 5545  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 4, 2012

**AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE  
SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND  
EVIDENCE OF BILLS FROM TREATING HEALTHCARE PROVIDERS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2012*) (a) Except as provided in  
2       subsection (b) of this section and subject to the provisions of sections  
3       19a-177, 38a-498 and 38a-525 of the general statutes, any person who  
4       receives emergency medical treatment services or transportation  
5       services from a licensed ambulance service or certified ambulance  
6       service shall be liable to such ambulance service for the reasonable and  
7       necessary costs of providing such services, irrespective of whether  
8       such person agreed or consented to such liability.

9       (b) The provisions of this section shall not apply to any person who  
10      receives emergency medical treatment services or transportation  
11      services from a licensed ambulance service or certified ambulance  
12      service for an injury arising out of and in the course of his employment  
13      as defined in section 31-275 of the general statutes.

14       Sec. 2. Subsection (b) of section 52-225a of the general statutes is  
15       repealed and the following is substituted in lieu thereof (*Effective*  
16       *October 1, 2012, and applicable to all actions pending on or filed on or after*  
17       *said date*):

18       (b) Upon a finding of liability and an awarding of damages by the  
19       trier of fact and before the court enters judgment, the court shall  
20       receive evidence from the claimant and other appropriate persons  
21       concerning the total amount of collateral sources which have been paid  
22       for the benefit of the claimant as of the date the court enters judgment.  
23       For purposes of this subsection, evidence that a physician or physician  
24       assistant licensed under chapter 370, dentist licensed under chapter  
25       379, chiropractor licensed under chapter 372, natureopath licensed  
26       under chapter 373, physical therapist licensed under chapter 376,  
27       podiatrist licensed under chapter 375, psychologist licensed under  
28       chapter 383, an emergency medical technician certified under chapter  
29       368d, optometrist licensed under chapter 380 or advanced practice  
30       registered nurse licensed under chapter 378, accepted an amount less  
31       than the total amount of any bill generated by such physician,  
32       physician assistant, dentist, chiropractor, natureopath, physical  
33       therapist, podiatrist, psychologist, emergency medical technician,  
34       optometrist or advanced practice registered nurse, or evidence that an  
35       insurer paid less than the total amount of any bill generated by such  
36       physician, physician assistant, dentist, chiropractor, natureopath,  
37       physical therapist, podiatrist, psychologist, emergency medical  
38       technician, optometrist or advanced practice registered nurse, shall be  
39       admissible as evidence of the total amount of collateral sources which  
40       have been paid for the benefit of the claimant as of the date the court  
41       enters judgment.

42       Sec. 3. Section 52-174 of the general statutes is repealed and the  
43       following is substituted in lieu thereof (*Effective October 1, 2012, and*  
44       *applicable to all actions pending on or filed on or after said date*):

45       (a) In all actions for the recovery of damages for personal injuries or  
46       death, (1) if a physician licensed under chapter 370, dentist licensed

47 under chapter 379, chiropractor licensed under chapter 372,  
48 natureopath licensed under chapter 373, physical therapist licensed  
49 under chapter 376, podiatrist licensed under chapter 375, psychologist  
50 licensed under chapter 383, emergency medical technician certified  
51 under chapter 368d, optometrist licensed under chapter 380, physician  
52 assistant licensed under chapter 370, advanced practice registered  
53 nurse licensed under chapter 378, professional engineer licensed under  
54 chapter 391 or land surveyor licensed under chapter 391 has died prior  
55 to the trial of the action, or (2) if [a] such physician, dentist,  
56 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
57 emergency medical technician, optometrist, physician assistant,  
58 advanced practice registered nurse, professional engineer or land  
59 surveyor is physically or mentally disabled at the time of the trial of  
60 the action to such an extent that such person is no longer actively  
61 engaged in the practice of the profession, the party desiring to offer  
62 into evidence the written records and reports of the physician, dentist,  
63 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
64 emergency medical technician, optometrist, physician assistant or  
65 advanced practice registered nurse concerning the patient who  
66 suffered the injuries or death, or the reports and scale drawings of the  
67 professional engineer or land surveyor concerning matters relevant to  
68 the circumstances under which the injuries or death was sustained  
69 shall apply to the court in which the action is pending for permission  
70 to introduce the evidence. Notice of the application shall be served on  
71 the adverse party in the same manner as any other pleading. The court  
72 to which the application is made shall determine whether the person is  
73 disabled to the extent that the person cannot testify in person in the  
74 action. Upon the court finding that the person is so disabled, the  
75 matters shall be admissible in evidence as a business entry in  
76 accordance with the provisions of section 52-180 when offered by any  
77 party in the trial of the action.

78 (b) In all actions for the recovery of damages for personal injuries or  
79 death, pending on October 1, 1977, or brought thereafter, and in all  
80 court proceedings in family relations matters, as defined in section

81 46b-1, or in the Family Support Magistrate Division, pending on  
82 October 1, 1998, or brought thereafter, and in all other civil actions  
83 pending on October 1, 2001, or brought thereafter, any party offering  
84 in evidence a signed report and bill for treatment of any treating  
85 [physician, dentist, chiropractor, natureopath, physical therapist,  
86 podiatrist, psychologist, emergency medical technician, optometrist,  
87 physician assistant or advanced practice registered nurse] physician or  
88 physician assistant licensed under chapter 370, dentist licensed under  
89 chapter 379, chiropractor licensed under chapter 372, natureopath  
90 licensed under chapter 373, physical therapist licensed under chapter  
91 376, podiatrist licensed under chapter 375, psychologist licensed under  
92 chapter 383, an emergency medical technician certified under chapter  
93 368d, optometrist licensed under chapter 380 or advanced practice  
94 registered nurse licensed under chapter 378, may have the report and  
95 bill admitted into evidence as a business entry and it shall be  
96 presumed that the signature on the report is that of [the] such treating  
97 physician, physician assistant, dentist, chiropractor, natureopath,  
98 physical therapist, podiatrist, psychologist, emergency medical  
99 technician, optometrist [, physician assistant] or advanced practice  
100 registered nurse and that the report and bill were made in the ordinary  
101 course of business. The use of any such report or bill in lieu of the  
102 testimony of such treating physician, physician assistant, dentist,  
103 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
104 emergency medical technician, optometrist [, physician assistant] or  
105 advanced practice registered nurse shall not give rise to any adverse  
106 inference concerning the testimony or lack of testimony of such  
107 treating physician, physician assistant, dentist, chiropractor,  
108 natureopath, physical therapist, podiatrist, psychologist, emergency  
109 medical technician, optometrist [, physician assistant] or advanced  
110 practice registered nurse. In any action to which this subsection  
111 applies, the total amount of any bill generated by such physician,  
112 physician assistant, dentist, chiropractor, natureopath, physical  
113 therapist, podiatrist, psychologist, emergency medical technician,  
114 optometrist or advanced practice registered nurse shall be admissible  
115 in evidence on the issue of the cost of reasonable and necessary

116 medical care. The calculation of the total amount of the bill shall not be  
 117 reduced because such physician, physician assistant, dentist,  
 118 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
 119 emergency medical technician, optometrist or advanced practice  
 120 registered nurse accepts less than the total amount of the bill or  
 121 because an insurer pays less than the total amount of the bill.

122 (c) This section shall not be construed as prohibiting either party or  
 123 the court from calling the treating physician, dentist, chiropractor,  
 124 natureopath, physical therapist, podiatrist, psychologist, emergency  
 125 medical technician, optometrist, physician assistant or advanced  
 126 practice registered nurse as a witness for purposes that include, but are  
 127 not limited to, providing testimony on the reasonableness of a bill for  
 128 treatment generated by such physician, dentist, chiropractor,  
 129 natureopath, physical therapist, podiatrist, psychologist, emergency  
 130 medical technician, optometrist, physician assistant or advanced  
 131 practice registered nurse.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012, and applicable to all actions pending on or filed on or after said date</i>	52-225a(b)
Sec. 3	<i>October 1, 2012, and applicable to all actions pending on or filed on or after said date</i>	52-174

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill does not result in a fiscal impact as it involves privately contracted ambulance services.

House "A" added provisions that make clarifying and technical changes that do not result in a fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****sHB 5545 (as amended by House “A”)\******AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND EVIDENCE OF BILLS FROM TREATING HEALTHCARE PROVIDERS.*****SUMMARY:**

This bill generally provides that anyone who receives emergency medical treatment or transportation services from a licensed or certified ambulance service is liable for the reasonable and necessary cost of those services, even if the person did not agree or consent to the liability.

Under the bill, this provision is subject to certain conditions in existing law, including the Department of Public Health (DPH) commissioner’s rate setting for ambulance services and requirements that insurers cover medically necessary ambulance services. Also, the provision does not apply to anyone receiving ambulance services for injuries arising out of and in the course of his or her employment, as defined in the worker’s compensation law (see BACKGROUND).

The bill also makes changes to the law regarding how economic damages are determined in personal injury or wrongful death cases. It makes evidence that a specified health care provider accepted payment from a claimant that is less than the total amount billed, or evidence that an insurer paid less than that total amount, admissible for purposes of the collateral source rule (the requirement that courts reduce economic damage awards by the amount the claimant received from health insurance or other collateral sources).

Under the bill, in cases in which the law allows such health care

providers' signed reports and bills for treatment to be introduced as business entry evidence without the provider testifying (see BACKGROUND), the total amount of the provider's bill is admissible evidence of the cost of reasonable and necessary medical care, and the calculation of that amount must not be reduced because (1) the provider accepts less than the total bill or (2) an insurer pays less than that amount.

Existing law provides that the law's provisions allowing certain business entry evidence to be introduced without such providers testifying does not preclude either party or the court from calling the treating provider as a witness. The bill specifies that the purposes for which they may be called to testify include giving testimony on the reasonableness of their bills for treatment.

\*House Amendment "A" (1) makes the collateral source provision, which in the file applies to actions filed on or after October 1, 2012, also apply to actions pending on that date; (2) makes the business entry evidence provisions apply to actions pending on or filed on or after October 1, 2012; (3) adds the provision on the purposes for which providers can be called to testify; and (4) makes technical changes.

EFFECTIVE DATE: October 1, 2012, and the provisions on collateral sources and business entry evidence are applicable to actions pending on or filed on or after that date.

## **LIABILITY FOR AMBULANCE PAYMENTS**

The bill's provisions on liability for ambulance payments are subject to the following provisions in existing law:

1. the DPH commissioner's duties regarding emergency medical services (which include, among other things, setting rates for ambulance services) (CGS § 19a-177); and
2. the requirement that health insurance policies provide coverage for medically necessary ambulance services (CGS §§ 38a-498 and 38a-525).



Among other things, the law provides that (1) insurers are not required to provide ambulance benefits in excess of the maximum rates set by DPH and (2) payments for such services must be paid directly to the ambulance provider if the provider complies with certain requirements and has not been paid by another source.

## **EVIDENCE OF COLLATERAL SOURCE PAYMENTS**

In personal injury or wrongful death cases, the law generally requires courts to reduce economic damages by the amount paid to the claimant by collateral sources (e.g., health insurance), less the amount paid, contributed, or forfeited by the claimant to secure the collateral source benefit. (Both the amount of collateral sources, and the amount paid to secure them, also include amounts paid on the claimant's behalf.)

After the jury or court finds liability and awards damages, and before the court enters judgment, the court must receive evidence on the total amount of collateral sources that have been paid for the claimant's benefit as of the date the court enters judgment. Under the bill, evidence that a specified health care provider accepted an amount less than the provider's total bill, or evidence that an insurer paid less than the total bill, is admissible for this purpose.

This provision applies to bills by state-licensed physicians, physician assistants, dentists, chiropractors, natureopaths, physical therapists, podiatrists, psychologists, optometrists, advanced practice registered nurses, or state-certified emergency medical technicians.

By law, there is no reduction for (1) collateral sources for which a right of subrogation exists or (2) the amount of collateral sources equal to the reduction in the claimant's economic damages due to his or her percentage of negligence (CGS § 52-225a(a)).

## **BACKGROUND**

### ***Worker's Compensation***

The worker's compensation law defines "arising out of and in the

course of employment” as an accidental injury to an employee, or an occupational disease of an employee, originating while the employee was engaged in the line of the employee’s duty in the business or affairs of the employer upon the employer’s premises, or while engaged elsewhere upon the employer’s business or affairs by the employer’s express or implied direction. There are additional provisions related to specific employees (e.g., police officers and firefighters) as well as other conditions and exceptions (e.g., injuries due to alcohol or narcotic use) (CGS § 31-275).

### ***Business Entry Evidence***

The law allows signed reports and bills of the treating health care providers listed above to be introduced in any civil action as business entry evidence without calling the provider to testify. It is presumed that the signature on the report is that of the treating provider, and that the report and bill were made in the ordinary course of business. The use of such evidence must not give rise to an adverse inference concerning the provider’s testimony or lack thereof.

In personal injury cases, the law also allows the records and reports of such providers, as well as certain other professionals, to be admitted into evidence if the provider or other professional has (1) died before trial or (2) is physically or mentally disabled and thus no longer practicing. To introduce such evidence, the court must determine that the person is in fact disabled to such an extent that he or she cannot testify (CGS § 52-174).

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 8 (04/02/2012)